

**KRONENBERGER ROSENFELD, LLP**

Karl S. Kronenberger (Bar No. 226112)

Jeffrey M. Rosenfeld (Bar No. 222187)

150 Post Street, Suite 520

San Francisco, CA 94108

Telephone: (415) 955-1155

Facsimile: (415) 955-1158

karl@KRInternetLaw.com

jeff@KRInternetLaw.com

Attorneys for Defendants Omar Qazi  
and Smick Enterprises, Inc.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**AARON GREENSPAN,**

Plaintiff,

v.

**OMAR QAZI, et al.,**

Defendants.

Case No. 3:20-cv-03426-JD

**DEFENDANT SMICK ENTERPRISES,  
INC.'S OPPOSITION TO PLAINTIFF'S  
ADMINISTRATIVE MOTION FOR  
LEAVE TO FILE APPLICATION FOR  
DEFAULT AND/OR MOTION FOR  
DEFAULT JUDGMENT ON SMICK  
ENTERPRISES, INC.**

Date: In Chambers  
Time: In Chambers  
Before: The Hon. James Donato  
Ctrm: 11, 19th Floor

**MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiff Aaron Greenspan (“Greenspan”) moves the Court for leave to file an application for default and/or a motion for default judgment against Defendant Smick Enterprises, Inc. (“Smick”). Greenspan argues that Smick is a foreign corporation that was required to register with the California Secretary of State, and its failure to do so precludes it from defending this action. Greenspan’s argument fails.

California state and federal courts have held that a “foreign corporation transacting intrastate business which has failed to qualify with the Secretary of State may nevertheless defend an action brought against it in state court.” *Matute v. JPMorgan Chase & Co.*, No. CV1601753SJOGJSX, 2016 WL 3092124, at \*4 (C.D. Cal. May 31, 2016) (quoting *United Med. Mgmt. Ltd. v. Gatto*, 49 Cal. App. 4th 1732, 1739 (1996)); *Senah, Inc. v. Xi'an Forstar S & T Co.*, No. 13-CV-04254-BLF, 2015 WL 1926394, at \*1 n.1 (N.D. Cal. Apr. 27, 2015) (“The Court did not address whether Defendant was in compliance with the statutes, finding that regardless of its compliance with the Corporations Code provisions at issue Defendant was able to defend against an action brought against it.”); *Conseco Mktg., LLC v. IFA & Ins. Servs., Inc.*, 221 Cal. App. 4th 831, 840 (2013) (quoting *Gatto*, 49 Cal. App. 4th at 1739)).

Greenspan’s reliance on *Palm Valley Homeowners Assn., Inc. v. Design MTC*, 85 Cal App. 4th 553 (2000) is misplaced. That case involved a California corporation whose powers and privileges were suspended under Corporations Code section 2205, for failing to file the required periodic statement with the Secretary of State as provided in Corporations Code section 1502.

In summary, Smick—a foreign corporation that has not registered with the California Secretary of State—can defend this lawsuit.

**CONCLUSION**

For all of the foregoing reasons, Smick requests that the Court deny Greenspan’s motion for leave to file an application for default and/or a motion for default judgment.

//



Respectfully Submitted,

DATED: December 30, 2020

**KRONENBERGER ROSENFELD, LLP**

By: s/ Karl S. Kronenberger  
Karl S. Kronenberger

Attorneys for Defendants Omar Qazi and  
Smick Enterprises, Inc.